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Applicant has amended the claim 1 and canceled the claims 3 and 5 without prejudice. Applicant respectfully submits that these amendments to claims are supported by the application as originally filed and do not contain any new matter. Accordingly, the Office Action will be discussed in terms of the claims as amended.

The Examiner has rejected the claims 1 and 5 under 35 USC 102 as being anticipated by Obata et al. stating that example 3 teaches a product comprising 480 grams of isoflavone aglycone powder comprising an isoflavon aglycone content of 52%, which was found to made up of 54% genistein, 40% diadzein and 6% of glycitein and the superoxide scavenging activity is an inherent property.

In reply thereto, Applicant respectfully submits that while the Examiner may be correct in his percentages, Applicant respectfully submits that Applicant's invention as claimed by claim 1 now requires that the concentrated isoflavon aglycone be in an amount of 70 wt.% diadzein and clearly example 3 only includes 40%.

In addition, Applicant respectfully submits that Obata et al. does not disclose any weight percentages and merely discusses the constituents in terms of a percent.

In view of the above, therefore, Applicant respectfully submits that Obata et al. does not disclose each and every element of Applicant's invention as claimed, does not disclose the superoxide scavenging activity and the claim 1 is not anticipated thereby.

The Examiner has rejected the claims 1, 3 and 5 under 35 USC 102 as being anticipated by The Merck Index stating that Merck discloses diadzein obtained by soybean and pure diadzein would encompass Applicant's amount and the superoxide scavenging activity is an inherent property.

Applicant has carefully reviewed Merck and respectfully submits that it is nothing more than an encyclopedia of chemicals, drugs and biologicals and does not teach anything about the concentrations or compositions of the chemicals, drugs and biologicals contained therein. Still further, Applicant respectfully submits that if one were to follow the logic of the Examiner, since carbon is most likely contained in Merck, any product made from pure carbon, such as carbon black, would be unpatentable. Still further, Merck does not disclose anything about superoxide scavenging activity.

Accordingly, Applicant respectfully submits that the claim 1 is not anticipated by Merck.

The Examiner has rejected the claims 1, 3 and 5 under 35 USC 102 as being anticipated by Potter et al. stating that Potter teaches a pharmaceutical composition of diadzein as the active agent and it is the Examiner's opinion that the formulation overlaps and encompasses Applicant's claimed amount of isoflavon aglycone of at least 30 wt.% and at least 70 wt.% of diadzein and the superoxide scavenging activity is inherent.

Applicant has carefully reviewed the formulations of Potter et al. and respectfully submits that in view of the great number of compositions, percentage wise, that could be created utilizing the various formulations of Potter et al., one of ordinary skill in the art would not be suggested to try the percentage composition of Applicant's invention. Accordingly, if one looked at Formulation 1 and assumed the maximum amount of each ingredient, there would be 1,000 mg of the active ingredient and 1,220 mg of the other stuff for a total of 2,220 mg. Given that the active ingredient only comprises 1,000 mg, the percentage of the active ingredient is less than 50%. Looking at Formulation 2, there would be 1,000 mg of active ingredient and 865 mg of the other stuff, for a total of 1,865 mg. Applicant respectfully submits that again the percentage of the active ingredient would be less than 70%.

Looking at Formulation 3, there would be 1,000 mg of active ingredient and 715 mg of the other stuff for a total of 1,715 mg. Again, since the active ingredient is only 1,000 mg, Applicant respectfully submits that the composition again would be less than 70% active ingredient.

Looking at Formulation 4, it describes only stirring in 1.5% by weight of the active ingredient.

Looking at the Formulations 5 through 8, each describe the use of a diadzein rich isolated soy protein and at column 8, lines 8 through 12 it describes that there are only 1 to 3 mg of diadzein per gram of soy protein or in other words less than 0.3% by weight diadzein. Accordingly, Applicant respectfully submits that in each of the Formulations 5 through 8, the weight percentage of diadzein would be even smaller since there are other elements or chemicals added to the formulation.

Still further, Applicant respectfully submits that Potter et al. discloses nothing about superoxide scavenging activity and in the small amounts of diadzein disclosed particularly in

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Formulations 5 through 8, a superoxide scavenging activity of 12,000 units/g cannot be expected.

In view of the above, therefore, Applicant respectfully submits that the claim 1 is not anticipated by Potter et al.

Applicant further respectfully and retroactively requests a three (3) month extension of time so as to respond to the Office Action and respectfully requests that the extension fee in the amount of \$1,050 be charged to QUINN EMANUEL DEPOSIT ACCOUNT NO. 50-4367.

In view of the above, therefore, it is respectfully requested that this Amendment be entered, favorably considered and the case passed to issue.

Please charge any additional costs incurred by or in order to implement this Amendment or required by any requests for extensions of time to QUINN EMANUEL DEPOSIT ACCOUNT NO. 50-4367.

Respectfully submitted,

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02/12/2008 VBUI11 00000042 504367 10533055

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